

PER DIEM AND TRAVEL MODIFICATIONS

2011 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies per diem and travel expense provisions used for authorities, boards, commissions, councils, and committees.

Highlighted Provisions:

This bill:

- defines terms;
- replaces language used to describe per diem and travel expenses for members of certain authorities, commissions, and councils with standardized language referencing primary provisions for per diem and travel expenses;
- modifies provisions regarding per diem and travel expenses; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

9-3-502, as enacted by Laws of Utah 2010, Chapter 364

9-3-602, as enacted by Laws of Utah 2010, Chapter 152

32B-2-201 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276

63A-3-106, as last amended by Laws of Utah 2009, Chapter 25

63A-3-107, as last amended by Laws of Utah 2009, Chapter 25

73-30-201, as enacted by Laws of Utah 2010, Chapter 141

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **9-3-502** is amended to read:

9-3-502. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and

33 **expenses.**

34 (1) There is created an independent state agency and a body politic and corporate
35 known as the "Heber Valley Historic Railroad Authority."

36 (2) The authority shall be composed of eight members as follows:

37 (a) one member of the county legislative body of Wasatch County;

38 (b) the mayor of Heber City;

39 (c) the mayor of Midway;

40 (d) the executive director of the Department of Transportation or the executive
41 director's designee;

42 (e) the executive director of Parks and Recreation, or the executive director's designee;

43 (f) three public members appointed by the governor with the consent of the Senate,
44 being private citizens of the state, as follows:

45 (i) two people representing the tourism industry, one each from Wasatch and Utah
46 counties; and

47 (ii) one person representing the public at large.

48 (3) All members shall be residents of the state.

49 (4) (a) Except as required by Subsection (4)(b), the three public members shall be
50 appointed for four-year terms beginning July 1, 2010.

51 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
52 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
53 authority members are staggered so that approximately half of the authority is appointed every
54 two years.

55 (5) Any of the three public members may be removed from office by the governor or
56 for cause by an affirmative vote of any four members of the authority.

57 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
58 appointed for the unexpired term by the governor with consent of the Senate for the unexpired
59 term.

60 (7) Each public member shall hold office for the term of appointment and until a
61 successor has been appointed and qualified.

62 (8) Any public member is eligible for reappointment, but may not serve more than two
63 full consecutive terms.

(9) The governor shall appoint the chair of the authority from among its members.

(10) The members shall elect from among their number a vice chair and other officers they may determine.

(11) The powers of the authority shall be vested in its members.

(12) Four members constitute a quorum for transaction of authority business. An affirmative vote of at least four members is necessary for any action to be taken by the authority.

~~[(13)(a)(i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

~~[(ii) Members may decline to receive per diem and expenses for their service.]~~

~~[(b)(i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the authority at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

~~[(ii) State government officer and employee members may decline to receive per diem and expenses for their service.]~~

~~[(c)(i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

~~[(ii) Local government members may decline to receive per diem and expenses for their service.]~~

(13) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section **9-3-602** is amended to read:

9-3-602. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses.

(1) There is created an independent body politic and corporate known as the "Utah State Railroad Museum Authority," hereafter referred to in this part as "the authority."

(2) The authority is composed of 11 members as follows:

(a) one member of the county legislative body of Weber County appointed by that legislative body;

(b) two members of the county legislative body of Box Elder County appointed by that legislative body;

(c) the executive director of the Department of Transportation or the director's designee; and

(d) seven public members appointed by the governor, as follows:

(i) two individuals representing the tourism industry, one each from Weber and Box Elder Counties;

(ii) one individual representing the public at large; and

(iii) four individuals representing railroad historic and heritage preservation organizations active in Weber and Box Elder Counties, as follows:

(A) one individual representing the Railroad and Locomotive Historical Society Golden Spike Chapter;

(B) one individual representing the Golden Spike Heritage Foundation;

(C) one individual representing the Golden Spike Association; and

(D) one individual representing the Corinne Historical Society.

(3) All members shall be residents of the state.

(4) (a) Except as required by Subsection (4)(b), the governor shall appoint the seven public members for four-year terms beginning July 1.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members appointed under Subsection (2)(d) are staggered so that approximately one-half of the seven public members are appointed every two years.

(5) Any of the seven public members may be removed from office by the governor or for cause by an affirmative vote of six members of the authority.

(6) When a vacancy occurs in the public membership for any reason, the governor shall appoint a replacement for the unexpired term.

(7) Each public member shall hold office for the term of the member's appointment and until a successor has been appointed and qualified.

(8) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.

(9) The governor shall appoint the chair of the authority from among its members.

(10) (a) The members shall elect from among their membership a vice chair and other officers as they may determine.

(b) The officers serve as the executive committee for the authority.

(11) The powers of the authority are vested in its members.

(12) (a) Six members constitute a quorum for transaction of authority business.

(b) An affirmative vote of at least six members is necessary for an action to be taken by the authority.

~~[(13)(a) A member who is not a government employee receives no compensation or benefits for the member's services, but may receive per diem and expenses incurred in the performance of the member's official duties at rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

~~[(b) A state government officer or employee member who does not receive salary, per diem, or expenses from the member's agency for the member's service may receive per diem and expenses incurred in the performance of official duties from the authority at rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

~~[(c) A local government member who does not receive salary, per diem, or expenses for the member's service from the entity that the member represents may receive per diem and expenses incurred in the performance of the member's official duties at rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

~~[(d) A member may decline to receive per diem and expenses for the member's services.]~~

(13) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

157 (b) Section 63A-3-107; and

158 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

159 63A-3-107.

160 Section 3. Section **32B-2-201 (Effective 07/01/11)** is amended to read:

161 **32B-2-201 (Effective 07/01/11). Alcoholic Beverage Control Commission created.**

162 (1) There is created the "Alcoholic Beverage Control Commission." The commission is
163 the governing board over the department.

164 (2) (a) The commission is composed of five part-time commissioners appointed by the
165 governor with the consent of the Senate.

166 (b) No more than three commissioners may be of the same political party.

167 (3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the
168 governor shall appoint each new commissioner or reappointed commissioner to a four-year
169 term.

170 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
171 time of appointment or reappointment, adjust the length of terms to ensure that the terms of no
172 more than two commissioners expire in a fiscal year.

173 (4) (a) When a vacancy occurs on the commission for any reason, the governor shall
174 appoint a replacement for the unexpired term with the consent of the Senate.

175 (b) Unless removed in accordance with Subsection (6), a commissioner shall remain on
176 the commission after the expiration of a term until a successor is appointed by the governor,
177 with the consent of the Senate.

178 (5) A commissioner shall take the oath of office.

179 (6) (a) The governor may remove a commissioner from the commission for cause after
180 a public hearing conducted by:

181 (i) the governor; or

182 (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

183 (b) At least 10 days before the hearing described in Subsection (6)(a), the governor
184 shall provide the commissioner notice of:

185 (i) the date, time, and place of the hearing; and

186 (ii) the alleged grounds for the removal.

187 (c) The commissioner shall have an opportunity to:

- 188 (i) attend the hearing;
- 189 (ii) present witnesses and other evidence; and
- 190 (iii) confront and cross examine witnesses.
- 191 (d) After a hearing under this Subsection (6):
- 192 (i) the person conducting the hearing shall prepare written findings of fact and
- 193 conclusions of law; and
- 194 (ii) the governor shall serve a copy of the prepared findings and conclusions upon the
- 195 commissioner.
- 196 (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing
- 197 examiner shall issue a written recommendation to the governor in addition to complying with
- 198 Subsection (6)(d).
- 199 (f) A commissioner has five days from the day on which the commissioner receives the
- 200 findings and conclusions described in Subsection (6)(d) to file written objections to the
- 201 recommendation before the governor issues a final order.
- 202 (g) The governor shall:
- 203 (i) issue the final order under this Subsection (6) in writing; and
- 204 (ii) serve the final order upon the commissioner.
- 205 ~~[(7)(a) A commissioner may not receive compensation or benefits for the~~
- 206 ~~commissioner's service, but may receive per diem and expenses incurred in the performance of~~
- 207 ~~the commissioner's official duties at the rates established by the Division of Finance under~~
- 208 ~~Sections 63A-3-106 and 63A-3-107.]~~
- 209 ~~[(b) A commissioner may decline to receive per diem and expenses for the~~
- 210 ~~commissioner's service.]~~
- 211 (7) A commissioner may not receive compensation or benefits for the commissioner's
- 212 service, but may receive per diem and travel expenses in accordance with:
- 213 (a) Section 63A-3-106;
- 214 (b) Section 63A-3-107; and
- 215 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
- 216 63A-3-107.
- 217 (8) (a) (i) The commission shall elect:
- 218 (A) one commissioner to serve as chair;

219 (B) another commissioner to serve as vice chair; and
220 (C) other commission officers as the commission considers advisable.

221 (ii) A commissioner shall serve in the office to which the commissioner is elected
222 under Subsection (8)(a)(i) at the pleasure of the commission.

223 (b) Each commissioner has equal voting rights on a commission matter when in
224 attendance at a commission meeting.

225 (c) Three commissioners is a quorum for conducting commission business.

226 (d) A majority vote of the quorum present at a meeting is required for the commission
227 to act.

228 (9) (a) The commission shall meet at least monthly, but may hold other meetings at
229 times and places as scheduled by:

230 (i) the commission;
231 (ii) the chair; or
232 (iii) three commissioners upon filing a written request for a meeting with the chair.

233 (b) Notice of the time and place of a commission meeting shall be given to each
234 commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public
235 Meetings Act. A commission meeting is open to the public, except for a commission meeting
236 or portion of a commission meeting that is closed by the commission as authorized by Sections
237 52-4-204 and 52-4-205.

238 Section 4. Section **63A-3-106** is amended to read:

239 **63A-3-106. Per diem rates for board members.**

240 (1) As used in this section and Section 63A-3-107:

241 (a) "Board" means a board, commission, council, committee, task force, or similar
242 body established to perform a governmental function.

243 (b) "Board member" means a person appointed or designated by statute to serve on a
244 board.

245 ~~[(b)]~~ (c) "Executive branch" means ~~[all departments, divisions, agencies, boards, and~~
246 ~~offices]~~ a department, division, agency, board, or office within the executive branch of state
247 government.

248 ~~[(c)]~~ (d) "Governmental entity" has the same meaning as provided under Section
249 63G-2-103.

250 ~~[(d)]~~ (e) "Higher education" means a state institution of higher education, as defined
251 under Section 53B-1-102.

252 (e) "Officer" means ~~[a member of a board or]~~ a person who is elected or appointed to
253 an office or position within a governmental entity.

254 (g) "Official meeting" means a meeting of a board that is called in accordance with
255 statute.

256 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
257 subject to approval by the executive director, the director of the Division of Finance shall make
258 rules establishing per diem rates to defray subsistence costs for a board member's attendance at
259 an official meeting ~~[of a board of which the officer or employee is a member].~~

260 (3) Unless otherwise provided by statute, a per diem rate established under Subsection
261 (2) is applicable to a board member who serves:

262 (a) ~~[is applicable to an officer or employee of]~~ within the executive branch, except as
263 provided under Subsection (3)(b);

264 (b) ~~[is applicable to an officer or employee of]~~ within higher education, unless higher
265 education pays the costs of the per diem; ~~[and]~~

266 (c) on a board that is:

267 (i) not included under Subsection (3)(a) or (b); and

268 (ii) created by a statute that adopts the per diem rates by reference to:

269 (A) this section; and

270 (B) the rule authorized by this section; and

271 ~~[(c) may be applicable to an officer or employee of]~~

272 (d) within a government entity that is not included under Subsection (3)(a), if the
273 government entity adopts the per diem rates by reference to:

274 (i) this section; or

275 (ii) the rule establishing the per diem rates.

276 (4) (a) Unless otherwise provided by statute, a board member ~~[of a board]~~ may receive
277 per diem under this section and travel expenses under Section 63A-3-107 ~~[when]~~ if the per
278 diem and travel expenses are incurred by the board member for attendance at an official
279 meeting ~~[of a board].~~

280 (b) Notwithstanding ~~[the provisions of]~~ Subsection (4)(a), a board member may not

receive per diem or travel expenses under this Subsection (4) if the board member is being paid [as an officer or employee of] by a governmental entity while performing the board member's service on the board.

(5) A board member [of a board] may decline to receive per diem for the board member's service.

Section 5. Section **63A-3-107** is amended to read:

63A-3-107. Travel expenses of board members and state officers and employees.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules governing in-state and out-of-state travel expenses.

(2) Unless otherwise provided by statute, a travel expense rule established under Subsection (1) is applicable to:

(a) [~~is applicable to~~] a board member, an officer, or employee of the executive branch, except as provided under Subsection (2)(b);

(b) [~~is applicable to~~] a board member, an officer, or employee of higher education, unless higher education pays the costs of the travel expenses; [~~and~~]

[~~(c) may be applicable to~~]

(c) a board member who:

(i) is not included under Subsection (2)(a) or (b); and

(ii) serves on a board created by a statute that adopts the travel expense rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) a government entity that is not included under Subsection (2)(a), if the government entity adopts the travel expense provisions by reference to:

(i) this section; or

(ii) the rule establishing the travel expense provisions.

(3) The Division of Finance shall make the travel expense rules on the basis of:

(a) a mileage allowance; and

(b) reimbursement for other travel expenses incurred.

(4) The travel expense rules may specify an exception to a travel expense rule or allow

[modification] the director of the Division of Finance to make an exception to a travel expense rule, when justified by the executive director of the executive branch agency or department, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business, as determined by the director of the Division of Finance.

(5) ~~(a)~~ An officer or employee of the executive branch may not incur obligations for travel outside ~~Utah~~ the state without:

(a) the advance approval [of the director of the Division of Finance. (b) The director of the Division of Finance may delegate the authority to approve travel outside the state to an] of the executive director or a designee of the executive director of [a state] an executive branch department or agency[-]; and

~~[(c) The approval under Subsection (5)(a) or (b), shall include]~~

(b) a certification as to the availability of funds.

(6) A board member ~~[of a board]~~ may decline to receive travel expenses for the board member's service.

Section 6. Section **73-30-201** is amended to read:

73-30-201. Advisory council created -- Staffing.

(1) There is created an advisory council known as the "Great Salt Lake Advisory Council" consisting of 11 members listed in Subsection (2).

(2) (a) The governor shall appoint the following members, with the consent of the Senate:

(i) one representative of industry representing the extractive industry;

(ii) one representative of industry representing aquaculture;

(iii) one representative of conservation interests;

(iv) one representative of a migratory bird protection area as defined in Section 23-28-102;

(v) one representative who is an elected official from municipal government, or the elected official's designee;

(vi) five representatives who are elected officials from county government, or the elected official's designee, one each representing:

(A) Box Elder County;

(B) Davis County;

(C) Salt Lake County;

(D) Tooele County; and

(E) Weber County; and

(vii) one representative of a publicly owned treatment works.

(3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

(b) Notwithstanding Subsection (3)(a), at the time of appointment or reappointment, the governor shall adjust the length of terms of voting members to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term with the consent of the Senate.

(d) A member shall hold office until the member's successor is appointed and qualified.

(4) The council shall determine:

(a) the time and place of meetings; and

(b) any other procedural matter not specified in this chapter.

(5) (a) Attendance of six members at a meeting of the council constitutes a quorum.

(b) A vote of the majority of the members present at a meeting when a quorum is present constitutes an action of the council.

~~[(6) (a) (i) A member who is not a government employee may not receive compensation or benefits for the member's services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

~~[(ii) A member who is not a government employee may decline to receive per diem and expenses for the member's service.]~~

~~[(b) (i) A state government officer or employee member who does not receive salary, per diem, or expenses from the member's agency for the member's service may receive per diem and expenses incurred in the performance of the official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

~~[(ii) A state government officer or employee member may decline to receive per diem and expenses for the member's service.]~~

~~[(c) (i) A local government member who does not receive salary, per diem, or expenses from the entity that the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

~~[(ii) A local government member may decline to receive per diem and expenses for the member's service.]~~

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The Department of Natural Resources and the Department of Environmental Quality shall coordinate and provide necessary staff assistance to the council.

Section 7. **Effective date.**

(1) Except as provided by Subsection 2, this bill takes effect on May 10, 2011.

(2) The amendments to Section 32B-2-201 in this bill take effect on July 1, 2011.